

### Environmental Restrictive Covenant

THIS COVENANT is made this 20<sup>TH</sup> day of October, 2009, by the City of Columbus ("Owner") concerning the property known as Mill Race Center Administrative Subdivision (Lot 1) in Columbus, Indiana.

WHEREAS: Owner owns certain real estate in the County of Bartholomew, Indiana, which is more particularly described in the attached Exhibit "A" and made a part hereof ("Real Estate"), which Real Estate was acquired by deed on May 1, 2001, and recorded on May 2, 2001 as Deed Record 200100005045, in the Office of the Recorder of Bartholomew County, Indiana.

WHEREAS: A Site Status Letter, dated September 29, 2009 was prepared and issued by the Indiana Department of Environmental Management ("the Department") pursuant to the Indiana Brownfields Program's recommendation at the request of the City of Columbus to address the redevelopment potential of a brownfield site with contamination resulting from a release of hazardous substances and petroleum (collectively, "Constituents of Concern") relating to the Mill Race Center Administrative Subdivision redevelopment project (the "Site"), site number BFD#4000046.

WHEREAS: The Site Status Letter, as approved by the Department, provides that the Constituents of Concern, specifically total petroleum hydrocarbons ("TPH"), phenanthrene, 2-methylnaphthalene, and benzene will remain on or beneath the surface of the Real Estate and provides for land use restrictions that must be maintained to ensure the protection of public health, safety, or welfare, and the environment. Soil on the Real Estate was sampled for RCRA metals, total petroleum hydrocarbons ("TPH") and benzene, toluene, ethylbenzene and xylene ("BTEX"). Groundwater samples were analyzed for BTEX and polynuclear aromatic hydrocarbons ("PNAs"). TPH was detected in soils above its July 2009 Risk Integrated System of Closure ("RISC") TPH Update residential default closure level ("RDCL") and industrial default closure level ("IDCL"). Phenanthrene, 2-methylnaphthalene, and benzene were detected in groundwater above their respective RDCLs established by the Department in the January 2006 (May 2009 Update) RISC Technical Resource Guidance Document. TPH was also detected in soils above its July 2009 RISC TPH Update RDCL. The Constituents of Concern and the concentration levels/detected parameters above RDCLs and/or IDCLs are set forth in Tables 1 - 3, attached hereto.

WHEREAS: The following reports were relied upon by the Department in issuance of the Site Status Letter for the Real Estate and determination of the land use restrictions contained in this Covenant:

- *Phase I Environmental Assessment* Report (American Environmental Corp., April 13, 1998)
- *Subsurface Investigation* Report (American Environmental Corp., June 17, 1998)
- *Limited Phase II Site Investigation* Report (SIECO, Inc., June 30, 2000)

These reports and other documents related to Brownfield Site #40000046 are incorporated herein by reference and may be examined by searching IDEM's Virtual File Cabinet on the Web at <http://www.in.gov/idem/4101.htm> as well as at IDEM's Public File Room.

WHEREAS: Notwithstanding the above-noted exceedances of RISC default closure levels for TPH in soil and phenanthrene, 2-methylnaphthalene, and benzene in groundwater, IDEM approved a non-default commercial/industrial closure of the Site under RISC because: 1) concentrations of TPH in soil based on available data were all below its July 2009 Update RISC IDCL with the exception of SB1-A which was taken at a 7' to 8' depth from an area that is to be capped/covered by a parking lot; and, 2) concentrations of phenanthrene, 2-methylnaphthalene, and benzene in groundwater are below their respective RISC IDCLs and the Site will be serviced by a municipal water supply upon completion of the proposed construction projects. Therefore, IDEM determined that Site conditions present no current threat to human health or the environment and that so long as the Site is maintained to uphold the land use controls required by this Covenant. A map of the Real Estate, attached hereto as Exhibit B, depicts the sample locations on the Real Estate in which Constituents of Concern exceeding RISC default closure levels were collected; Tables 1 - 3, attached hereto, summarize the sample results.

NOW THEREFORE, Owner, hereby, in consideration for the promises contained herein and other good and valuable consideration imposes restrictions on the Real Estate and covenants and agrees that:

#### I. GENERAL PROVISIONS

1. Property Conveyance- Continuance of Provisions. Any conveyance of title, easement, or other interest in the Real Estate shall be subject to compliance with restrictions described in paragraph 7, below.
2. Restrictions to Run with the Land. The restrictions and other requirements described in this Covenant shall run with the land and be binding upon, and inure to the benefit of the Owner of the Real Estate and the Owner's successors, assignees, heirs and lessees or their authorized agents, employees, contractors, representatives, agents, lessees, licensees, invitees, guests, or persons acting under their direction or control and shall continue as a servitude running in perpetuity with the Real Estate. No transfer, mortgage, lease, license, easement, or other conveyance of any interest in all or any part of the Real Estate by any person shall limit the restrictions set forth herein. This Covenant is imposed upon the entire Real Estate unless expressly stated as applicable only to a specific portion thereof.
3. Binding upon Future Owners. By taking title to the Real Estate, any subsequent owner agrees to comply with these restrictions and the terms of this Covenant.
4. Access for Department. The Owner shall grant to the Department and its designated representatives the right to enter upon the Real Estate at reasonable times for the purpose of determining whether the land use restrictions described in paragraph 7 are being maintained (and operated as applicable) in a manner that ensures the protection of public health, safety, or welfare and the environment; this includes the right to take samples, monitor compliance with the corrective action plan, and inspect records.



5. Written Notice of the Presence of Hazardous Substances. Owner agrees to include in any instrument conveying any interest in any portion of the Real Estate, including but not limited to deeds, leases and subleases (excluding mortgages, liens, similar financing interests, and other non-possessory encumbrances) the following notice provision:

**NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL RESTRICTIVE COVENANT, DATED October 20 2009, RECORDED IN THE OFFICE OF THE RECORDER OF BARTHOLOMEW COUNTY ON October 21, 2009, INSTRUMENT NUMBER (or other identifying reference) 2009-13157 IN FAVOR OF AND ENFORCEABLE BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT.**

6. Notice to Department of the Conveyance of Property. Owner agrees to provide notice to the Department no later than thirty (30) days after any conveyance of any ownership interest in the Real Estate (excluding mortgages, liens, similar financing interests, and other non-possessory encumbrances). Owner must provide Department with a certified copy of the instrument conveying any interest in any portion of the Real Estate and, if it has been recorded, its recording reference. Such notice shall also include the name and business address of the transferee.

## II. RESTRICTIONS AND OBLIGATIONS

7. The Owner shall:

- a) Not use the Real Estate for residential purposes, including, but not limited to, daily care facilities (e.g. daycare centers, schools, and retirement living facilities). Senior community centers, to include but not limited to senior daycare, schooling for seniors, and periodic visitations by minor school children to the senior center for activities are not restricted.
- b) Not use the Real Estate for agricultural purposes.
- c) Neither engage in nor allow the installation or use of water wells on the Real Estate. There shall be no consumptive, extractive or other use of the groundwater underlying the Real Estate that could cause exposure of humans or animals to the groundwater or disrupt the movement of groundwater underlying the Real Estate, other than for site investigation and/or remediation purposes, without prior Department approval.
- d) Neither engage in nor allow excavation of soil from any depth on the Real Estate without first submitting a work plan for approval by the Department at least sixty (60) days prior to beginning work. Any removal, excavation or disturbance of soil on the Real Estate must be conducted in accordance with all applicable requirements of IOSHA/OSHA and any soil that is removed, excavated or disturbed from the Real Estate must be managed and disposed of in accordance with all applicable federal and state laws and regulations

- e) Notify the Department if there is a change in the land use and/or any zoning changes that affect the commercial/industrial use of the Real Estate.

### III. ENFORCEMENT

- 8. Enforcement. Pursuant to IND. CODE § 13-14-2-6(5), the Department may proceed in court, by appropriate action to enforce this Covenant. Owner agrees that the restrictions are enforceable, and agrees not to challenge the appropriate court's jurisdiction.

### IV. TERM, MODIFICATION AND TERMINATION

- 9. Term. The restrictions shall apply until the Department determines that the constituents of concern no longer present an unacceptable risk to the public health, safety, or welfare, or to the environment.
- 10. Modification and Termination. This Covenant shall not be amended, modified, or terminated except by written instrument executed between the Department and the owner of the Real Estate at the time of the proposed amendment, modification, or termination. Within five (5) days of executing an amendment, modification, or termination of the Covenant, such amendment, modification, or termination shall be recorded with the Office of the Recorder of Bartholomew County and within five (5) days after recording, a true copy of the recorded amendment, modification, or termination shall be presented to the Department.

### V. MISCELLANEOUS

- 11. Waiver. No failure on the part of the Department at any time to require performance by any person of any term of this Covenant shall be taken or held to be a waiver of such term or in any way affect the Department's right to enforce such term, and no waiver on the part of the Department of any term hereof shall be taken or held to be a waiver of any other term hereof or the breach thereof.
- 12. Conflict of and Compliance with Laws. If any provision of this Covenant is also the subject of any law or regulation established by any federal, state, or local government, the strictest standard or requirement shall apply. Compliance with this Covenant does not relieve the Owner from complying with any other applicable laws.
- 13. Change in Law or Regulation. In the event that the Risk Integrated System of Closure ("RISC") is adopted by rule in Indiana, or in the event of any other change in applicable law or regulations, this Covenant shall be interpreted so as to ensure the continuing validity and enforceability of the restrictions listed in paragraph 7, above. In no event shall this Covenant be rendered unenforceable if Indiana's laws, regulations, RISC guidelines, or policies for environmental restrictive covenants or institutional or engineering controls change as to form or content. All statutory references include any successor provisions.



14. Notices. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other pursuant to this Covenant shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:

To Owner:  
Board of Public Works and Safety  
City of Columbus  
123 Washington St  
Columbus, IN 47201

To Department:  
Indiana Brownfields Program  
IGCN-Suite 1275  
100 North Senate Avenue  
Indianapolis, Indiana 46204-2251  
ATTN: Tracy Concannon

Any party may change its address or the individual to whose attention a notice is to be sent by giving written notice in compliance with this paragraph.

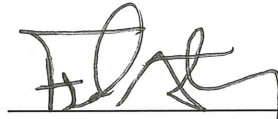
15. Severability. If any portion of this Covenant or other term set forth herein is determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions of this Covenant shall remain in full force and effect as if such portion found invalid had not been included herein.
16. Liability. An Owner's rights and obligations under this instrument terminate upon transfer of the Owner's interest in the Real Estate, except that liability for acts or omissions occurring prior to transfer shall survive transfer.
17. Authority to Execute and Record. The undersigned persons executing this Covenant on behalf of the Owner represent and certify that they are duly authorized and have been fully empowered to execute, record, and deliver this Covenant.

Owner hereby attests to the accuracy of the statements in this document and all attachments.

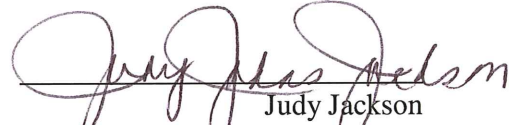
I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

\_\_\_\_\_(Printed Name of Declarant)

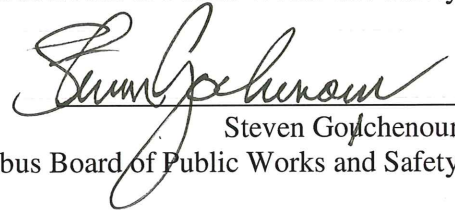
IN WITNESS WHEREOF, the said Owner of the Real Estate described above has caused this Environmental Restrictive Covenant to be executed on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.



Fred Armstrong  
Mayor, City of Columbus



Judy Jackson  
Member, City of Columbus Board of Public Works and Safety



Steven Goychenour  
Member, City of Columbus Board of Public Works and Safety

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_, the \_\_\_\_\_ of the Owner, \_\_\_\_\_, who acknowledged the execution of the foregoing instrument for and on behalf of said entity.

Witness my hand and Notarial Seal this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_, Notary Public

Residing in \_\_\_\_\_ County, \_\_\_\_\_

My Commission Expires:

This instrument prepared by:



## **TABLES**

### **Sampling Results for Contaminants of Concern Exceeding RDCLs and/or IDCLS**

#### **Table 1**

##### **Summary of Soil Contaminants *Subsurface Investigation***

#### **Table 2**

##### **Summary of Groundwater Contaminants *Subsurface Investigation***

#### **Table 3**

##### **Summary of Soil Contaminants *Limited Phase II Site Investigation***

<b>Table 1</b> <b>Summary of Soil Contaminants</b> <i>Subsurface Investigation</i> (Collected 4/30/98) Sample Depth 18' -19'			
<b>Contaminant (Sample Number)</b>	<b>Detected Concentration (ppm)</b>	<b>IDEM RISC Closure Levels (ppm)</b>	
		<b>July 2009 RISC TPH Updates - Residential</b>	<b>July 2009 RISC TPH Updates - Industrial</b>
TPH (P-4)	1,750	230	2,300

Note: ppm- parts per million

<b>Table 2</b> <b>Summary of Groundwater Contaminants</b> <i>Subsurface Investigation</i> (Collected 4/30/98 and 5/28/98)			
<b>Contaminant (Sample Number)</b>	<b>Detected Concentration (ppb)</b>	<b>IDEM RISC Closure Levels (ppb)</b>	
		<b>RDCL</b>	<b>IDCL</b>
Phenanthrene (P-1w)	100	23	310
2- Methylnaphthalene (P-1w)	300	31	410
Benzene (P-5w)	15	5	52

Note: ppb – parts per billion  
RDCL – Residential Default Closure Levels  
IDCL – Industrial Default Closure Levels

<b>Table 3</b> <b>Summary of Soil Contaminants</b> <i>Limited Phase II Site Investigation</i> (Collected 6/6/00) Sample Depth 7' - 8'			
<b>Contaminant (Sample Number)</b>	<b>Detected Concentration (ppm)</b>	<b>IDEM RISC Closure Levels (ppm)</b>	
		<b>July 2009 RISC TPH Updates - Residential</b>	<b>July 2009 RISC TPH Updates - Industrial</b>
TPH (SB1-A)	4,900	230	2,300

Note: ppm- parts per million



**EXHIBIT A**

**Legal Description of the Real Estate**

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200100005045  
Filed for Record in  
BARTHOLOMEW COUNTY, IN  
ROSALYN C NORMAN  
05-02-2001 10:20 am.  
WARR DEED 20.00

WARRANTY DEED

THIS INDENTURE WITNESSETH, That BRADLEY BROMWELL, over the age of majority, (Grantor), of Bartholomew County, State of Indiana, **CONVEYS AND WARRANTS** to CITY OF COLUMBUS, INDIANA, (Grantee), for the sum of Ten Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the following described real estate in Bartholomew County, State of Indiana:

Part of the North Half of the Southwest Quarter of Section 24, Township 9 North, Range 5 East of the Second Principal Meridian, Bartholomew County, Indiana, more particularly described as follows:

For a place of beginning commence at an iron stake in the East and West centerline of said Section, and the centerline of the Columbus, Hope and Greensburg, now the Cleveland, Cincinnati, Chicago & St. Louis Railroad track, said iron stake being also the northwest corner of a parcel of land now or formerly owned by Hege & Co.; thence West on said centerline of said Section 24, 240 feet to the Northwest corner of land now or formerly owned by Francis J. Crump, said corner being the beginning point for this description; thence Southwesterly along the West line of said Crump's Land 507 feet to an iron stake at the Northwest corner of land now or formerly owned by W. W. Mooney & Sons; thence Southwesterly 49.5 feet to a point in the northeast right of way line of the Old Madison and Indianapolis Railroad; thence in a Northwesterly direction on a line parallel to and 50 feet distant from the centerline of said Railroad to its point of intersection with said East and West centerline of said Section; thence East to the place of beginning, containing, exclusive of the 20 foot right of way off the north end of the above described tract, now occupied by the



2

State Highway known as State Road No. 1 and also as Eighth Street Road, 3.25 acres, more or less.

EXCEPTING THEREFROM, commencing at an iron pipe with a hole in the cap located over the Northeast corner stone of said Southwest Quarter at the intersection of Tenth and Washington Street; thence South 88 degrees 37 minutes 20 seconds West (an assumed bearing) along the North line of said Southwest Quarter 1,186.49 feet to a  $\frac{1}{2}$  inch drill hole in concrete in the center of Old State Road #1 located on the West line of the Old Mill Race; thence South 01 degree 22 minutes 34 seconds West along the West line of the Old Mill Race 460.39 feet to a concrete nail in the centerline of U.S. Highway 31A as it is now located, said concrete nail being the point of beginning for the tract hereby described; thence continuing South 01 degree 22 minutes 34 seconds West along said West line 46.61 feet to a 2" galvanized iron pipe located on the West line of property conveyed to Francis Overstreet by Warranty Deed recorded in Deed Record 87, page 384 in the Office of the Bartholomew County Recorder; thence South 35 degrees 02 minutes 30 seconds West continuing along said West line 82.31 feet to a P.K. nail in a railroad cross-tie located at the centerline of the Old Madison-Indianapolis Railroad, now the Pennsylvania-New York Central Transportation Company Spur; thence Northwesterly along the centerline of said Spur on an irregular right curve (having a chord of 329.96 feet bearing North 42 degrees 49 minutes 52 seconds West) to a 5/8" steel rod with an aluminum cap marked LS 7749; thence North 01 degree 12 minutes 00 seconds West 80.40 feet to a concrete nail in the centerline of U.S. Highway 31A as it is now located; thence Southeasterly along the centerline of said Highway on a left curve (having a chord of 344.53 feet bearing South 52 degrees 47 minutes 10 seconds East and a radius of 954.93 feet) for an arc distance of 346.43 feet to the point of

beginning, containing 0.701 acres, more or less.

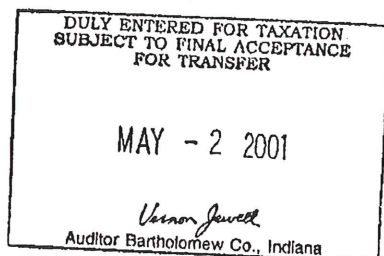
Subject to taxes.

Grantor conveys the real estate to the Grantee and Grantee accepts the real estate in an "AS IS" condition with both parties aware of the fact said real estate had environmental problems that have been addressed.

With the exception of any condition, covenant or restriction based on race, color, religion, sex, handicap, familial status, or national origin, unless and only to the extent that said covenant (a) is exempt under Chapter 42, Section 3607 of the United States Code, or (b) relates to handicap, but does not discriminate against handicapped persons, the above described real estate is subject to all valid easements, restrictions, roadways and rights of way of record.

IN WITNESS WHEREOF, Grantor has executed this Deed this  
1 day of May, 2001.

*Bradley Bromwell*  
BRADLEY BROMWELL, Grantor





4

STATE OF INDIANA )  
 ) SS:  
COUNTY OF BARTHOLOMEW )

Before me, a Notary Public, in and for said County and State, personally appeared BRADLEY BROMWELL, over the age of majority, who acknowledged the execution of the foregoing Warranty Deed, and who, having been duly sworn, stated that any representations therein contained are true.

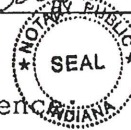
Witness my hand and Notarial Seal this 1 day of MAY, 2001.

My Commission Expires:

Lelsa J. Boyd  
Notary Public

Printed Name:

County of Residence



NOTARY PUBLIC  
Lelsa J. Boyd  
Commission Expires 3-16-2008  
Resident-Johnson Co.

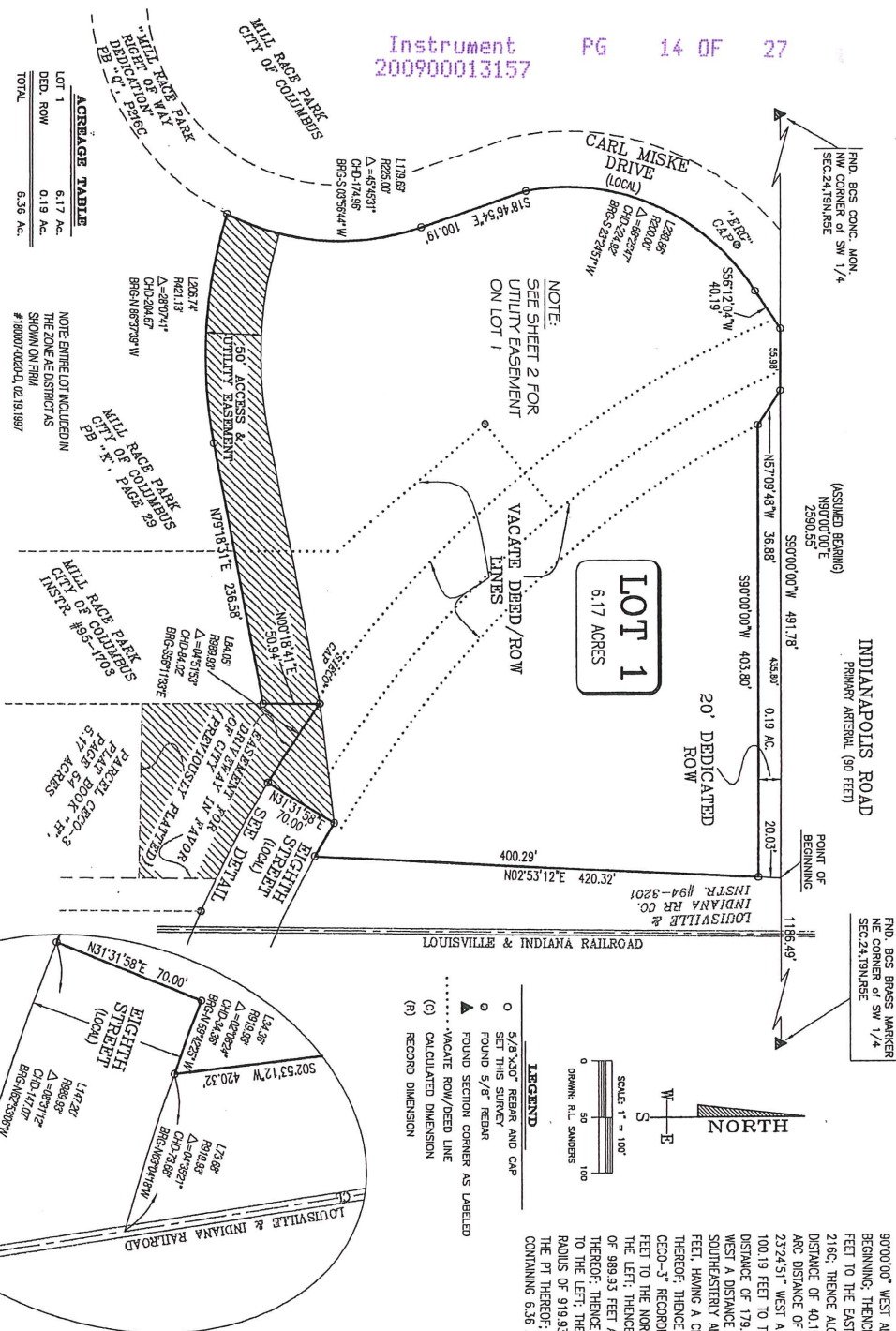
This Instrument Prepared by JAMES W. HOLLAND, #7747-03,  
Attorney at Law, Columbus, Indiana.

Grantee's Address: 123 WASHINGTON ST. Columbus IN 47203  
c/O Clerk Treasurer

# MILL RACE CENTER ADMINISTRATIVE SUBDIVISION

A PART OF THE SOUTHWEST QUARTER OF SECTION 24, TOWNSHIP 9 NORTH, RANGE 5 EAST  
SITUATED IN COLUMBUS TOWNSHIP, BARTOLOMEW COUNTY, INDIANA  
SHEET ONE OF THREE

Instrument PG 14 OF 27  
200900013157

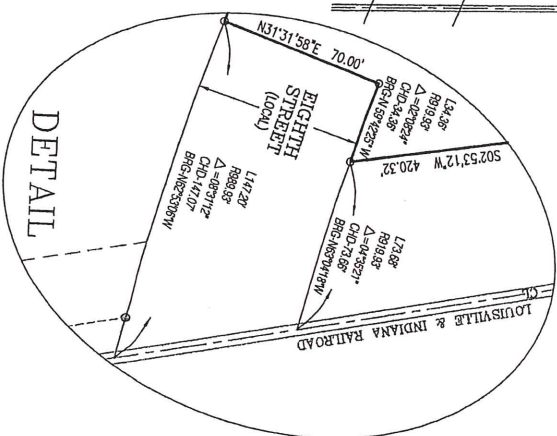


CURRENT OWNER OF RECORD:  
CITY OF COLUMBUS, INDIANA  
INSTR. #2001-5945  
AUG-19-2001  
#03-55-34-320-000-100-005

CURRENT OWNER OF RECORD:  
CITY OF COLUMBUS, INDIANA  
INSTR. #2001-5945  
AUG-19-2001  
#03-55-34-320-000-100-005

CURRENT OWNER OF RECORD:  
CITY OF COLUMBUS, INDIANA  
INSTR. #2001-5945  
AUG-19-2001  
#03-55-34-320-000-100-005

Public Right of Way  
vacated per Ordinance  
Number 16-2009.



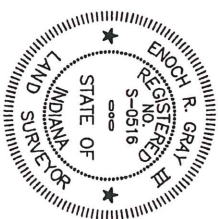
**PROPERTY DESCRIPTION**  
PART OF THE SOUTHWEST QUARTER OF SECTION 24, TOWNSHIP 9 NORTH, RANGE 5 EAST LYING IN COLUMBUS TOWNSHIP, BARTOLOMEW COUNTY, INDIANA AND DESCRIBED AS FOLLOWS:  
COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION; THENCE SOUTH 90°00'00" WEST ALONG THE NORTH LINE OF SAID QUARTER A DISTANCE OF 1186.49 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 90°00'00" WEST ALONG SAID NORTH LINE A DISTANCE OF 491.78 FEET TO THE EAST RIGHT OF WAY LINE FOR CARL MISKE DRIVE AS RECORDED IN PLAT BOOK "C", PAGE 2186; THENCE ALONG SAID RIGHT OF WAY LINE THE NEXT FOUR CALLS: 1) SOUTH 56°12'04" WEST A DISTANCE OF 40.19 FEET TO THE PC OF A CURVE TO THE LEFT; 2) SOUTHEASTERLY ALONG SAID CURVE AN ARC DISTANCE OF 238.86 FEET HAVING A RADIUS OF 200.00 FEET AND A CHORD BEARING OF SOUTH 23°24'51" WEST A DISTANCE OF 224.92 FEET TO THE PT THEREOF; 3) SOUTH 18°45'54" EAST A DISTANCE OF 100.19 FEET TO THE PC OF A CURVE TO THE RIGHT; 4) SOUTHEASTERLY ALONG SAID CURVE AN ARC DISTANCE OF 179.69 FEET HAVING A RADIUS OF 225.00 FEET AND A CHORD BEARING OF SOUTH 03°56'44" WEST A DISTANCE OF 174.96 FEET TO THE PC OF A NON-TANGENT CURVE TO THE LEFT; THENCE SOUTHEASTERLY ALONG SAID CURVE FOR A ARC DISTANCE OF 208.74 FEET HAVING A RADIUS OF 421.13 FEET, HAVING A CHORD BEARING OF SOUTH 86°37'39" EAST A DISTANCE OF 204.63 FEET TO THE PT THEREOF; THENCE NORTH 79°18'31" EAST A DISTANCE OF 236.58 FEET TO THE WEST LINE OF "PARCEL CE00-3" RECORDED IN PLAT BOOK "H", PAGE 54; THENCE NORTH 00°18'41" EAST A DISTANCE OF 50.94 FEET TO THE NORTHWEST CORNER OF SAID "PARCEL CE00-3" AND THE PC OF A NON-TANGENT CURVE TO THE LEFT; THENCE SOUTHEASTERLY ALONG SAID CURVE AN ARC DISTANCE OF 84.05 FEET HAVING A RADIUS OF 989.93 FEET AND A CHORD BEARING OF SOUTH 56°11'33" EAST A DISTANCE OF 84.02 FEET TO THE PT THEREOF; THENCE NORTH 31°31'58" EAST A DISTANCE OF 70.00 FEET TO THE PC OF A NON-TANGENT CURVE TO THE LEFT; THENCE SOUTHEASTERLY ALONG SAID CURVE FOR AN ARC DISTANCE OF 34.36 FEET HAVING A RADIUS OF 919.93 FEET AND A CHORD BEARING OF SOUTH 59°42'25" EAST A DISTANCE OF 34.36 FEET TO THE PT THEREOF; THENCE NORTH 02°33'12" EAST A DISTANCE OF 420.32 FEET TO THE POINT OF BEGINNING, CONTAINING 6.36 ACRES MORE OR LESS AND SUBJECT TO ALL APPLICABLE RIGHTS OF WAY AND EASEMENTS.

- LEGEND**
- 5/8"x30" REBAR AND CAP
  - SET THIS SURVEY
  - FOUND 5/8" REBAR
  - ▲ FOUND SECTION CORNER AS LABELED
  - VACATE ROW/DEED LINE
  - (C) CALCULATED DIMENSION
  - (R) RECORD DIMENSION

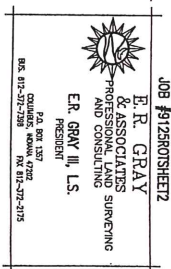
## SURVEYOR'S CERTIFICATE

I, ENOCH R. GRAY, III, HEREBY STATE THAT I AM A PROFESSIONAL SURVEYOR, LICENSED IN ACCORDANCE WITH THE LAWS OF THE STATE OF INDIANA, THAT A SURVEY COMPLETED BY ME IN MARCH OF 2009, THAT ANY CHANGES FROM THE ORIGINAL SURVEY TO THIS SURVEY HAVE BEEN MADE IN ACCORDANCE WITH THE LAWS OF THE STATE OF INDIANA, AND THAT ALL MONUMENTS SHOWN THEREON ACTUALLY EXIST OR WILL BE INSTALLED, I MAKE NO REAL ESTATE FOR THE CONSTRUCTION OF BOUNDARIES.

ENOCH R. GRAY, III  
DATE: 6.18.09  
RECEIVED 4-29-09



ENOCH R. GRAY, III  
& ASSOCIATES  
PROFESSIONAL LAND SURVEYING  
AND CONSULTING  
ER GRAY III, L.S.  
PRESIDENT  
P.O. BOX 1357  
COLUMBUS, INDIANA 47022  
317-375-1738 FAX 317-375-2175



SHEET 2 OF 3

# MILL RACE CENTER ADMINISTRATIVE SUBDIVISION

A PART OF THE SOUTHWEST QUARTER OF SECTION 24, TOWNSHIP 9 NORTH, RANGE 6 EAST  
SITUATED IN COLUMBUS TOWNSHIP, BARTOLOMEY COUNTY, INDIANA  
SHEET THREE OF THREE

## OWNER'S CERTIFICATE

WE, THE UNDERSIGNED, CITY OF COLUMBUS, INDIANA, OWNERS OF THE REAL ESTATE SHOWN AND DESCRIBED HEREIN, DO HEREBY CERTIFY THAT WE HAVE Laid OFF, AND SUBDIVIDED, AND DO HEREBY LAY OFF, AND SUBDIVIDE, SAID REAL ESTATE IN ACCORDANCE WITH THE WITHIN DRAWING.

THIS SUBDIVISION SHALL BE KNOWN AND DESIGNATED AS MILL RACE CENTER ADMINISTRATIVE SUBDIVISION, CONSISTING OF ONE LOT IDENTIFIED HEREON AS LOT 1, CONTAINING 6.17 ACRES, AND DEDICATED NORTH OF WAY CONTAINING 5.19 ACRES, CONTAINING IN ALL 6.28 ACRES.

THE SETBACK LINES SHALL BE DETERMINED BY THE REGULATIONS OF THE COLUMBUS, INDIANA, ZONING ORDINANCE OF CURRENT ADOPTION.

THE PUBLIC STREETS AND ALLEYS SHOWN AND DESIGNATED AS SUCH AND NOT HERETOFORE DEDICATED ARE HEREBY DEDICATED TO THE PUBLIC AND SHALL BE MAINTAINED AS SUCH BY THE CITY OF COLUMBUS, INDIANA, AND THE PUBLIC SHALL BE HEREBY DEDICATED FOR THE PURPOSES DESIGNATED HEREON.

LOT 1 IS SUBJECT TO THE DECLARATION OF COVENANTS AND CONDITIONS AND RESTRICTIONS AS RECORDED IN WEST EIGHTH STREET MINOR PLAT.

THERE ARE STRIPS OF GROUND SHOWN ON THIS DRAWING AND MARKED EASEMENT, RESERVED FOR THE USE OF PUBLIC UTILITIES AND SUBJECT TO THE PARAMOUNT RIGHT OF THE UTILITY OR CITY TO INSTALL, REPAIR, MAINTAIN OR REPLACE ITS INSTALLATION.

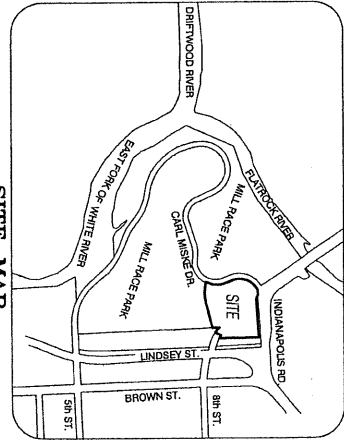
THERE IS A 50 FOOT ACCESS AND UTILITY EASEMENT SHOWN ON THIS DRAWING AND MARKED ACCORDINGLY. THIS IS INTENDED TO BE PRIVATE IN PERPETUITY, AND THERE IS NO OBLIGATION FOR ANY GOVERNMENT ENTITY TO ASSUME ANY RESPONSIBILITY FOR THIS EASEMENT NOW OR IN ANY FUTURE YEAR. THE RESPONSIBILITY FOR MAINTENANCE AND SNOW REMOVAL IS ASSUMED BY THE OWNERS OF LOT 1.

THIS SUBDIVISION CONTAINS PROPERTY INCLUDED IN ZONE AE DISTRICT ON THE NATIONAL FLOOD INSURANCE RATE FLOODWAY MAP #18007 DATED FEBRUARY 19, 1997, NO BUILDING MAY BE CONSTRUCTED OR SUBSTANTIALLY IMPROVED AFTER THE DATE OF THIS INSTRUMENT IN THE BUILDING CONSTRUCTED OR SUBSTANTIALLY IMPROVED AFTER THE DATE OF THIS INSTRUMENT IN THE ZONE AE DISTRICT SHALL BE PROVIDED WITH A FLOOD PROTECTION GRADE WHICH IS AT LEAST TWO FEET ABOVE SAID FLOOD ELEVATION. THE FLOOD PROTECTION GRADE IS THE ELEVATION OF THE FLOOR OF THE BUILDING. IF EASEMENT IS INCLUDED, THE EASEMENT FLOOR SHALL BE CONSIDERED TO BE THE LOWEST FLOOR.

WITNESS OUR HAND AND SEAL, THIS 23 DAY OF June, 2009.  
CITY OF COLUMBUS, INDIANA

*Fred L. Armstrong*  
FRED L. ARMSTRONG, CHAIRMAN  
JUDY JOHNS JACKSON, MEMBER  
STEVEN L. GOCHENOUR, MEMBER  
ATTEST: BRENDA SULLIVAN, CLERK TREASURER

WITNESS MY HAND AND NOTARIAL SEAL, THIS 23 DAY OF June, 2009.  
*Donna L. Beshke*  
DONNA L. BESHKE  
COUNTY OF BARTOLOMEY  
MY COMMISSION EXPIRES May 11, 2017



## ADMINISTRATIVE SUBDIVISION APPROVAL

THIS SUBDIVISION HAS BEEN DETERMINED TO BE AN ADMINISTRATIVE SUBDIVISION AND IS ELIGIBLE FOR RECORDING AS SUCH.

APPROVED BY THE PLANNING DIRECTOR THIS 23 DAY OF June, 2009.

*Michael P. Beshke*  
MICHAEL P. BESHKE, PLANNING DIRECTOR

VOID UNLESS RECORDED BY October 21, 2009.

## AUDITOR CERTIFICATE

THE REAL PROPERTY HAS BEEN DULY ENTERED FOR TAXATION AND TRANSFERRED ON THE RECORDS OF THE AUDITOR OF BARTOLOMEY COUNTY.

THIS 31<sup>st</sup> DAY OF July, 2009

*Brianne J. Thompson*  
BRIANNE J. THOMPSON, BARTOLOMEY COUNTY AUDITOR



## BOARD OF PUBLIC WORKS AND SAFETY APPROVAL

BE IT RESOLVED BY THE BOARD OF PUBLIC WORKS AND SAFETY, CITY OF COLUMBUS, INDIANA, THAT THE REVISIONS SHOWN ON THIS PLAN ARE HEREBY APPROVED AND

ACCEPTED THIS 23 DAY OF June, 2009.

*Fred L. Armstrong*  
FRED L. ARMSTRONG, CHAIRMAN  
JUDY JOHNS JACKSON, MEMBER  
STEVEN L. GOCHENOUR, MEMBER  
ATTEST: BRENDA SULLIVAN, CLERK TREASURER

## RECORDING CERTIFICATE

RECORDED IN PLAT BOOK "P", PAGE 2088, THIS 31<sup>st</sup> DAY OF July, 2009 AT 1:54 O'CLOCK P.M.

INSTRUMENT NO. 2009-1017 FEE PAID \$ 31.00

A NOTATION HAS BEEN MADE ON THE ORIGINAL PLAT OF WEST EIGHTH STREET MINOR PLAT AS RECORDED IN PLAT BOOK "P", PAGE 23.

*Betty Jean Beshke*  
BETTY JEAN BESHKE, BARTOLOMEY COUNTY RECORDER

SURVEYORS REPORT RECORDED AS  
2009-1018



REVISED 4-29-09  
JOB #9125

**E. R. GRAY & ASSOCIATES**  
PROFESSIONAL LAND SURVEYING  
AND CONSULTING  
PRESIDENT  
ER. GRAY III, LS

PLAT BOOK 102  
2009-1018  
RECORDED MAY 17, 2010



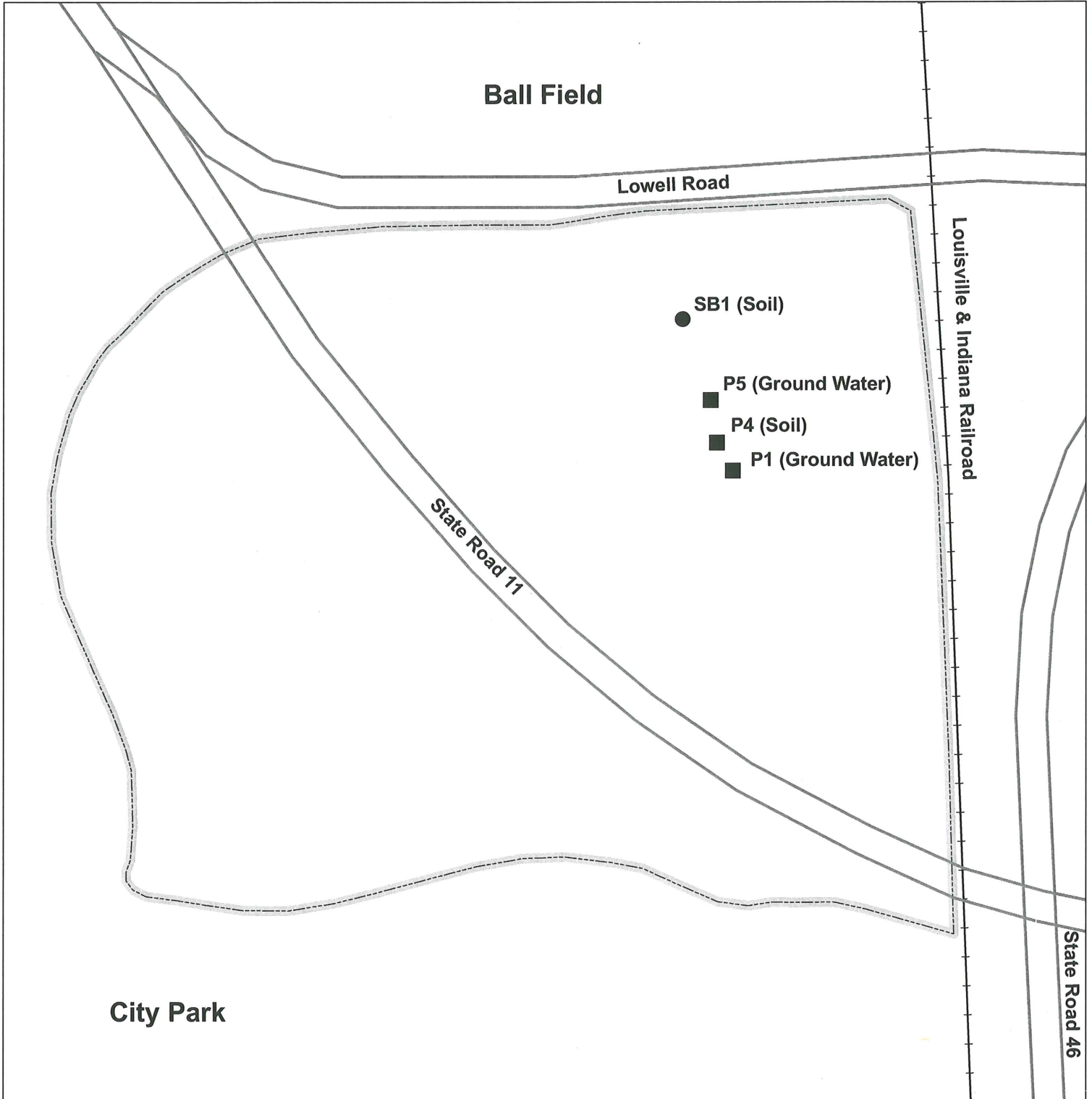
## **EXHIBIT B**

### **Map of Real Estate Showing Sample Locations in which Contaminants of Concern Exceeded RDCLs or IDCLs in Soil**

*DISCLAIMER: Information on this map is being provided to depict environmental conditions on the Real Estate that are the subject of the land use restrictions contained in the Covenant to which this map is attached and incorporated. The land use restrictions contained in the Covenant were deemed appropriate by the Department based on information provided to the Department by the Owner or another party investigating and/or remediating the environmental conditions on the Real Estate. This map cannot be relied upon as a depiction of all current environmental conditions on the Real Estate, nor can it be relied upon in the future as depicting environmental conditions on the Real Estate.*

**Mill Race Bus Transfer Station  
Columbus, Bartholomew County, Indiana  
Site Location Map  
with Sample Locations Exceeding Residential Default Closure Levels (RDCL)**

Instrument PG 18 OF 27  
00990501.05



This map is intended to serve as an aid in graphic representation only. This information is not warranted for accuracy or other purposes.

**Mapped By:** Diane Osborn, Office of Land Quality  
**Date:** September 24, 2009



0 25 50 100 Feet  
0 5 10 20 30 Meters

**Property Boundary and  
Sample Locations are Approximate**

- 1998 American Environmental Sample Location
- June 2000 SIECO, Inc. Engineers Sample Location
- Approximate Property Boundary



**Sources:**  
**Non Orthophotography Data**  
- Obtained from the State of Indiana  
Geographical Information Office Library  
**Map Projection:** UTM Zone 16 N  
**Map Datum:** NAD83

**EXHIBIT C**

**Copy of Brownfields Site Status Letter**



## INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

*We Protect Hoosiers and Our Environment.*

*Mitchell E. Daniels, Jr.*  
**Governor**

*Thomas W. Easterly*  
**Commissioner**

100 North Senate Avenue  
Indianapolis, Indiana 46204  
(317) 232-8603  
Toll Free (800) 451-6027  
[www.idem.IN.gov](http://www.idem.IN.gov)

September 29, 2009

Kent Anderson  
Director  
Columbus Area Metropolitan Planning Organization  
123 Washington Street  
Columbus, IN 47201-6774

Re: Site Status Letter  
Mill Race Center Administrative  
Subdivision Lot 1 (bordered by  
Indianapolis Rd. to north, Lindsey  
St./Railroad to east, 8<sup>th</sup> Street to  
south & Loop Rd. (Carl Miske  
Drive) in Mill Race Park to west)  
Columbus, Bartholomew County  
BFD #4000046

Dear Mr. Anderson:

In response to the request to the Indiana Brownfields Program (Program) by the Columbus Area Metropolitan Planning Organization (CAMPO) on behalf of ColumBUS Transit for assistance concerning the proposed development of Lot 1 of the Mill Race Center Administrative Subdivision located at the above-referenced address (Site), the Indiana Department of Environmental Management (IDEM) has agreed to provide this Site Status Letter to clarify IDEM's position on the necessity of an environmental response action at the Site. This letter is not a legal release from liability. It will, however, help to establish whether environmental conditions at the Site might be a barrier to redevelopment or transfer.

The 6.17 acre Site is currently undeveloped and covered with grass, brush and a few scattered trees. The Site was assembled by vacating Indianapolis Road and adding a City-owned parcel that was previously land-locked in the triangle formed by Indianapolis Road, 11<sup>th</sup> Street, and the railroad. Historical Site uses include a bulk oil facility that operated from approximately the mid-1930s until approximately 1985. Fill material consisting of foundry sand appears to have been placed on the Site at an unknown time in the past. There is no evidence of any underground storage tanks (USTs) or of four above-ground storage tanks (ASTs) suspected to have existed on the Site in the past. The Site is currently owned by the City of Columbus (City). The Site roughly bisected from the northwest corner to the southeast corner, and the City plans to redevelop the northeast half of the Site into the Mill Race Bus Transfer Station and southwest half of the Site as the Mill Race Senior Center.



Proposed Mill Race Bus Transfer Station, BFD #4000046  
Site Status Letter  
September 29, 2009  
Page 2 of 5

As part of CAMPO's request for assistance in determining any existing environmental impacts and potential liability to undertake response activities at the Site, Program staff has reviewed the following reports:

- *Phase I Environmental Assessment* Report (American Environmental Corp., April 13, 1998)
- *Subsurface Investigation* Report (American Environmental Corp., June 17, 1998)
- *Limited Phase II Site Investigation* Report (SIECO, Inc., June 30, 2000)

During the *Subsurface Investigation* in 1998, subsurface soils were collected and analyzed for total petroleum hydrocarbons (TPH) and benzene, toluene, ethylbenzene and xylene (BTEX) in the approximate former location of the ASTs. Groundwater samples were analyzed for BTEX and polynuclear aromatic hydrocarbons (PNAs). During the *Subsurface Investigation*, TPH samples appear to have been quantitated against diesel fuel standards or diesel range organics (DRO), the then-applicable analytical approach. During the *Limited Phase II Site Investigation* in 2000, surface soils were collected and analyzed for RCRA metals, and subsurface soils were analyzed for TPH and BTEX. Groundwater samples were collected and analyzed for BTEX.

Program staff compared soil sample results to IDEM's Risk Integrated System of Closure (RISC) Technical Resource Guidance Document, January 2006 (May 2009 Update) default closure levels as well as the July 2009 RISC TPH Update. TPH was detected in subsurface soil boring P-4 during the 1998 *Subsurface Investigation* at 1,750 parts per million (ppm) which is above its July 2009 RISC TPH Update residential default closure level (RDCL) of 230 ppm, but below its July 2009 RISC TPH Update industrial default closure level (IDCL) of 2,300 ppm. During the 1998 investigation, phenanthrene was detected in groundwater sample P-1w at 100 ppb which is above its RISC RDCL of 23 ppb, but below its RISC IDCL of 310 ppb. 2-methylnaphthalene was detected in groundwater sample P-1w at 300 ppb which is above its RISC RDCL of 31, below its RISC IDCL of 410 ppb. Benzene was detected in groundwater sample P-5w at 15 ppb which is above its RISC RDCL of 5, but below its IDCL of 52 ppb.

During the 2000 *Limited Phase II Site Investigation*, TPH was detected in subsurface soil boring SB1-A at 4,900 ppm which exceeds its July 2009 RISC TPH Update RDCL of 230 ppm and IDCL of 2,300 ppm. The elevated TPH sample SB-1A is believed to be in the vicinity of the former petroleum dispensing area. The original grade of the bulk oil facility is believed to be at approximately 7-8 feet below current ground surface. Fill material in the form of foundry sand exists at the Site at a depth of up to 10 feet. The TPH-contaminated area is estimated to be approximately 4,000 square feet in diameter and to a depth of approximately 20 feet below ground surface, but has not been fully delineated.

Additional groundwater samples taken during the *Limited Phase II Site Investigation* in 2000 found the groundwater to be non-detect for BTEX concentrations. It is possible that the previously detected levels of phenanthrene, methylnaphthalene, and benzene in groundwater were highly localized or that the contamination has degraded since the 1998 *Subsurface*

*Investigation*; current samples would have to be taken to confirm these assumptions and current contaminant levels on the Site.

<b>Table 1</b> <b>Summary of Soil Contaminants</b> <b><i>Subsurface Investigation</i></b> (Collected 4/30/98) Sample Depth 18'-19'			
Contaminant (Sample Number)	Detected Concentration (ppm)	IDEM RISC Closure Levels (ppm)	
		July 2009 RISC TPH Updates - Residential	July 2009 RISC TPH Updates - Industrial
TPH (P-4)	1,750	230	2,300

Note: ppm- parts per million

<b>Table 2</b> <b>Summary of Groundwater Contaminants</b> <b><i>Subsurface Investigation</i></b> (Collected 4/30/98 and 5/28/98)			
Contaminant (Sample Number)	Detected Concentration (ppb)	IDEM RISC Closure Levels (ppb)	
		RDCL	IDCL
Phenanthrene (P-1w)	100	23	310
2-Methylnaphthalene (P-1w)	300	31	410
Benzene (P-5w)	15	5	52

Note: ppb – parts per billion  
 RDCL – Residential Default Closure Levels  
 IDCL – Industrial Default Closure Levels

<b>Table 3</b> <b>Summary of Soil Contaminants</b> <b><i>Limited Phase II Site Investigation</i></b> (Collected 6/6/00) Sample Depth 7'- 8'			
Contaminant (Sample Number)	Detected Concentration (ppm)	IDEM RISC Closure Levels (ppm)	
		July 2009 RISC TPH Updates - Residential	July 2009 RISC TPH Updates - Industrial
TPH (SB1-A)	4,900	230	2,300

Note: ppm- parts per million

Notwithstanding the above-noted exceedances of RISC default closure levels for TPH in soil and phenanthrene, 2-methylnaphthalene and benzene in groundwater, IDEM can approve a non-default commercial/industrial closure of the Site under RISC because:

- 1) concentrations of TPH in soil are below its RISC IDCL with the exception of SB1-A, which sample was taken at a 7' – 8' depth in an area is to be capped/covered by a parking lot for the adjacent Mill Race Senior Center; and,
- 2) concentrations of phenanthrene, 2-methylnaphthalene and benzene in groundwater are below their respective RISC IDCLs and the Site will be serviced by a municipal water supply upon completion of the proposed construction projects.

IDEM has determined based on available data that Site conditions present no current threat to human health or the environment and that so long as the Site is maintained to uphold the institutional controls discussed below, Site conditions satisfy RISC for non-default commercial/industrial closure.

IDEM concludes, in part based on information provided by the CAMPO, that:

- (1) No state or federal enforcement action at the Site is pending;
- (2) No federal grant requires an enforcement action at the Site;
- (3) No condition on the Site constitutes an imminent and substantial threat to human health or the environment;
- (4) Neither the City of Columbus nor an agent or employee of the City of Columbus caused, contributed to, or knowingly exacerbated the release or threat of release of any hazardous substance or petroleum at the Site through an act or omission;
- (5) The City of Columbus does not have any ownership interest in any entity that caused, contributed to, or knowingly exacerbated the release or threat of release;
- (6) There is no alternative basis for the City of Columbus' liability for historic contamination at the Site (e.g., liability as a generator) or by reason of the existence of a new source of contaminants on the Site; and
- (7) Current levels of contaminants at the Site meet current non-default cleanup criteria as established by IDEM so long as the land use controls required by this letter are maintained.

Based on the information on known contaminant levels submitted to or otherwise reviewed by IDEM, IDEM concludes that current Site conditions do not warrant a response action at this time and does not plan to take a response action at the Site at this time. If IDEM later discovers that above-referenced reports or other information submitted to IDEM was inaccurate, or if any activities undertaken by an owner or operator exacerbate the Site contamination, then IDEM reserves the right to revoke this letter and pursue any responsible parties. Additionally, this determination does not apply to any contamination that is not described in this Site Status Letter or any future releases at the Site. Furthermore, this letter does not constitute an assurance that the Site is safe or fit for any particular use.

IDEM encourages the redevelopment of this Site for commercial/industrial purposes. Please be advised that any work performed at the Site must be done in accordance with all applicable environmental laws. Redevelopment of this Site in a manner consistent with the land use restrictions discussed below will lessen the possibility that environmental conditions at the subject Site could deteriorate in the future.

Since levels of TPH in soil and benzene and PNAs in groundwater at the Site are above IDEM's RISC RDCLs, an environmental restrictive covenant (ERC) is required to be placed on the deed for the Site. IDEM is requiring land use restrictions through the enclosed ERC, which includes provisions to prohibit use of the Site for residential or agricultural purposes, restrict groundwater usage and require notification to IDEM of planned excavation at the Site.

In order for IDEM to consider this letter effective, the City must record the following documents on the deed for the property comprising the Site in the Bartholomew County Recorder's Office:

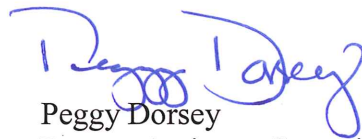
- 1) This Site Status Letter
- 2) The Environmental Restrictive Covenant

Please return a certified copy of the filed documents to the address listed below:

Indiana Brownfields Program  
100 North Senate Avenue, Room 1275  
Indianapolis, Indiana 46204  
ATTN: Tracy Concannon

IDEM is pleased to assist the Columbus Area Metropolitan Planning Organization, the City of Columbus and ColumBUS Transit with the commercial/industrial redevelopment of this Site. Should you have any questions or comments, please contact Tracy Concannon of the Indiana Brownfields Program at 317-233-2801 or toll-free at 1(800) 451-6027, extension 3-2801 or by e-mail at [tconcann@ifa.in.gov](mailto:tconcann@ifa.in.gov).

Sincerely,



Peggy Dorsey  
Deputy Assistant Commissioner  
Office of Land Quality

cc: *Jan Pels, U.S. EPA Region 5 (via electronic copy)*  
*Mayor Fred Armstrong, City of Columbus*  
*Meredith Gramelspacher, Indiana Brownfields Program (via electronic copy)*



Proposed Mill Race Bus Transfer Station, BFD #4000046  
Site Status Letter  
September 29, 2009  
Page 6 of 6

Instrument PG 25 OF 27  
200900013157

*Tracy Concannon, Indiana Brownfields Program (via electronic copy)*  
*Mike Sullivan, IDEM Office of External Affairs/Community Relations (via electronic copy)*

**TABLES**  
**Sampling Results for Contaminants of Concern Exceeding RDCLs and/or IDCLS**

**Table 1**  
**Summary of Soil Contaminants**  
***Subsurface Investigation***

**Table 2**  
**Summary of Groundwater Contaminants**  
***Subsurface Investigation***

**Table 3**  
**Summary of Soil Contaminants**  
***Limited Phase II Site Investigation***

<b>Table 1</b> <b>Summary of Soil Contaminants</b> <b><i>Subsurface Investigation</i></b> <b>(Collected 4/30/98)</b> <b>Sample Depth 18'-19'</b>			
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Note: ppm- parts per million

<b>Table 2</b> <b>Summary of Groundwater Contaminants</b> <b><i>Subsurface Investigation</i></b> <b>(Collected 4/30/98 and 5/28/98)</b>			
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		RDCL	IDCL
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Benzene (P-5w)	15	5	52

Note: ppb – parts per billion  
RDCL – Residential Default Closure Levels  
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<b>Table 3</b> <b>Summary of Soil Contaminants</b> <b><i>Limited Phase II Site Investigation</i></b> <b>(Collected 6/6/00)</b> <b>Sample Depth 7'- 8'</b>			
Contaminant (Sample Number)	Detected Concentration (ppm)	IDEM RISC Closure Levels (ppm)	
		July 2009 RISC TPH Updates - Residential	July 2009 RISC TPH Updates - Industrial
TPH (SB1-A)	4,900	230	2,300

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